

REMARKS

This is intended as a full and complete response to the Office Action dated May 12, 2008, having a shortened statutory period for response set to expire on August 12, 2008. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1, 2, 4-14, 16-25 and 27-40 are pending in the application. Claims 1, 2, 4-13, and 30-38 remain pending following entry of this response. Claims 1, 10, 30, and 36 have been amended. Claims 14, 16-25, 27-29, 39 and 40 have been cancelled. Applicants submit that the amendments and new claims do not introduce new matter.

Further, Applicants are not conceding in this application that those amended (or canceled) claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the claimed subject matter. Applicants respectfully reserve the right to pursue these (pre-amended or canceled claims) and other claims in one or more continuations and/or divisional patent applications.

Interview Summary

On June 23rd, 2008, a telephonic interview was held between Sanjay Shenoy, Applicant's attorney and Examiner Meng Yao Zhe. The parties discussed the cited references including *Sprenkle*. Claim 1 was discussed. The parties also discussed proposed amendments to claim 1. The proposed amendments are reflected in this response.

During the interview, Applicants argued that *Sprenkle* does not disclose a first logical partition on a single computer. No agreement could be reached at the time of the interview, but the Examiners agreed that the proposed amendments discussed would clarify the claimed subject matter. Accordingly, the Examiner requested that a written response be filed for further consideration.

Claim Rejections - 35 U.S.C. § 101

Claims 14, 16-22 recite an "apparatus"; however, it appears that the apparatus would reasonably be interpreted by one of ordinary skill in the art as software, per se, failing to be tangibly embodied or include any recited hardware as part of the system.

Claims 14, and 16-22 have been cancelled, thereby obviating the rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-2, 4-6, 8-9, 17, 23-25, 28-30, 32, 36, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Dynamic Virtual Clusters in a Grid Site Manager", *Sara E. Sprenkle et al.*, Pub date, June 22-24, 2003 (hereafter *Sprenkle*) in view of *Camble et al.*, Pub No. 2003/0135580 (hereafter *Camble*).

Claims 7, 10, 11-14, 16, 18-22, 27, 31, 33-35, 37, 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Dynamic Virtual Clusters in a Grid Site Manager", *Sara E. Sprenkle et al.*, Pub date, June 22-24, 2003 (hereafter *Sprenkle*) in view of *Camble et al.*, Pub No. 2003/0135580 (hereafter *Camble*) further in view of *Lumelsky et al.*, Patent No. 6,460,082 (hereafter *Lumelsky*).

Applicants respectfully traverse this rejection.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art.

Respectfully, Applicants submit that the claims, as amended herein, are not obvious in light of the cited references. Specifically, regarding claims 1, 30, 36, and the claims depending therefrom, *Sprenkle* does not disclose a first logical partition on a

single computer. *Sprenkle* is directed to a clustered system comprising a plurality of servers. See Abstract of *Sprenkle*. Specifically, *Sprenkle* describes a cluster manager called Cluster On-Demand (COD) that allocates servers from a common pool to multiple virtual clusters, or vclusters. See *Id.* The Examiner analogizes the first logical partition with the vclusters of *Sprenkle*. However, a virtual cluster comprising a plurality of servers is not the same as a logical partition of a single computer. Therefore, *Sprenkle* does not disclose all the claim elements. For the same reason, regarding claim 10 and the claims depending therefrom, *Sprenkle* does not disclose a plurality of logical partitions on a single computer.

Therefore, the claims are believed to be allowable, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

/Gero G. McClellan, Reg. No. 44,227/

Gero G. McClellan
Registration No. 44,227
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)